

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN

United States of America

ORDER OF DETENTION PENDING TRIAL

v.
Marcus Keith Johnson

Case No. 1:11-cr-278

Defendant

After conducting a detention hearing under the Bail Reform Act, 18 U.S.C. § 3142(f), I conclude that these facts require that the defendant be detained pending trial.

Part I – Findings of Fact

- ____ (1) The defendant is charged with an offense described in 18 U.S.C. § 3142(f)(1) and has previously been convicted of ____ a federal offense ____ a state or local offense that would have been a federal offense if federal jurisdiction had existed – that is
- ____ a crime of violence as defined in 18 U.S.C. § 3156(a)(4), or an offense listed in 18 U.S.C. § 2332b(g)(5)(B) for which the prison term is 10 years or more.
- ____ an offense for which the maximum sentence is death or life imprisonment.
- ____ an offense for which a maximum prison term of ten years or more is prescribed in: _____.*
- ____ a felony committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. § 3142(f)(1)(A)-(C), or comparable state or local offenses.
- ____ any felony that is not a crime of violence but involves:
- ____ a minor victim
- ____ the possession or use of a firearm or destructive device or any other dangerous weapon
- ____ a failure to register under 18 U.S.C. § 2250
- ____ (2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense.
- ____ (3) A period of less than 5 years has elapsed since the ____ date of conviction ____ defendant's release from prison for the offense described in finding (1).
- ____ (4) Findings (1), (2) and (3) establish a rebuttable presumption that no condition will reasonably assure the safety of another person or the community. I further find that defendant has not rebutted that presumption.

Alternative Findings (A)

- ____ (1) There is probable cause to believe that the defendant has committed an offense
- ____ for which a maximum prison term of ten years or more is prescribed in:
- ____ Controlled Substances Act (21 U.S.C. 801 et seq.) ____.*
- ____ under 18 U.S.C. § 924(c).
- ____ (2) The defendant has not rebutted the presumption established by finding (1) that no condition or combination of conditions will reasonably assure the defendant's appearance and the safety of the community.

Alternative Findings (B)

- ☒ (1) There is a serious risk that the defendant will not appear.
- ____ (2) There is a serious risk that the defendant will endanger the safety of another person or the community.

Part II – Statement of the Reasons for Detention

I find that the testimony and information submitted at the detention hearing establishes by ____ clear and convincing evidence ☒ a preponderance of the evidence that:

defendant is a 29 year old unemployed man with an unstable residential history. His criminal history spans 12 years, during which he has acquired 23 convictions, 3 of them for felonies. Four of the convictions are drug-related, and many of his convictions are based on attempts to elude or frustrate apprehension (false information to police, fleeing and eluding, resisting and obstructing officers, leaving the scene of a personal injury accident.) In 2009, he failed to appear in state court for jury selection, and in 2010 he failed to appear in response to an order to show cause, necessitating his arrest. A PPO is presently in place on the basis of his harassment of a female victim. Defendant has proven himself incapable of conforming to bond orders or the requirements of law.

Part III – Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or a designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or held in custody pending appeal. The defendant must be afforded a reasonable opportunity to consult privately with defense counsel. On order of United States Court or on request of an attorney for the Government, the person in charge of the corrections facility must deliver the defendant to the United States marshal for a court appearance.

Date: October 14, 2011Judge's Signature: /s/ Joseph G. ScovilleName and Title: Joseph G. Scoville, U.S. Magistrate Judge